

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Wanda Jean Walton, :
Plaintiff, :
v. : Case No. 2:14-cv-479
Commissioner of Social : JUDGE GEORGE C. SMITH
Security, : Magistrate Judge Kemp
Defendant. :
:

REPORT AND RECOMMENDATION

Plaintiff Wanda Jean Walton filed a complaint in this action on May 21, 2014. She is asking the Court to review the Commissioner of Social Security's denial of her applications for disability insurance benefits and supplemental security income. She was granted leave to proceed without paying a filing fee, and the United States Marshal was directed to serve the complaint.

Although Plaintiff does not have to serve the complaint herself, she does have to supply the Court with copies of the complaint and a summons for each of the three entities which must be served in this case, which includes the Commissioner, the Attorney General of the United States, and the United States Attorney for the Southern District of Ohio. The Clerk advised her of the need to provide these documents, plus a Form USM-285, which tells the Marshal where to serve each entity, but she did not respond to that letter.

Service has to be made within 120 days of the date a case is filed. Noting that there was no record that service has been made by that date, the Court issued an order quoting Federal Rule of Civil Procedure 4(m) and ordering Plaintiff to show good cause within fourteen days of the date of this Order why this action

should not be dismissed and why an extension of time to effect service should be allowed. That order also said that the good cause showing must be supported with sworn affidavits.

Plaintiff has not responded to the order. The case cannot proceed unless the Defendant has been served with a complaint telling it that Plaintiff is asking for review of the decision. Under these circumstances, unless Plaintiff responds to this Report and Recommendation by explaining why she has not yet provided the necessary papers and forms to the Court and asks for an extension of time to do so, the case must be dismissed. It is therefore recommended that, absent some response by Plaintiff, this case be dismissed under Fed.R.Civ.P. 4(m).

Procedure on Objections

If any party objects to this Report and Recommendation, that party may, within fourteen days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A judge of this Court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the magistrate judge with instructions. 28 U.S.C. §636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the district judge review the Report and Recommendation de novo, and also operates as a waiver of the right to appeal the decision of the District Court adopting the

Report and Recommendation. See Thomas v. Arn, 474 U.S. 140 (1985); United States v. Walters, 638 F.2d 947 (6th Cir.1981).

/s/ Terence P. Kemp
United States Magistrate Judge